United Nations A/HRC/37/NGO/38

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Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Asociación Española para el Derecho Internacional de los Derechos Humanos (AEDIDH), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01730(E)
1801730

Please recycle

The 2016 GA Declaration on the right to peace: an assessment

Upon proposal by the HR Council, the General Assembly adopted on 19 December 2016 resolution 71/1891 in a divided vote of 131 in favor, 34 against and 19 abstentions. The resolution approved the Declaration on the Right to Peace as proposed by the HR Council. Its substantive part only has two articles, as follows:

Article 1.Everyone has the right to enjoy peace such that all human rights are promoted and protected and development is fully realized.
Article 2.States should respect, implement and promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies.

528 world-wide CSO led by the Spanish Society for International Human Rights Law (SSIHRL) and the International Observatory for the Human Right to Peace (IOHRP), rejected the GA Declaration as insufficient, since it did not recognize the human right to peace nor its essential components. With this divided vote, the Declaration should have been more ambitious, as claimed by CSO, which proposed as essential components the following:

- The preamble to spell out the legal bases of the right to peace in international human rights law.
- The right-holders are individuals, groups, peoples, minorities and humankind.
- The States' obligations to refrain from the use or the threat of use of force in international relations; and from imposing unilateral sanctions. In addition, States shall strengthen the three foundation pillars of the UN in the fields of international peace and security, human rights and development; facilitate the contribution of women to the peaceful settlement of disputes and the maintenance of peace after conflicts; suppress propaganda of war; respect the right of peoples to self-determination; and reform the Security Council to ensure compliance with its obligations under the Charter of the United Nations.
- The right to disarmament.
- The right to education on peace and human rights. Cultural violence and discrimination against women must be eliminated.
- The right to human security, including freedom from fear and freedom from want.
- The right to resist and oppose oppression from colonialism, foreign occupation, domestic oppression, aggression, genocide, racism, apartheid, war crimes and crimes against humanity. Private military and security companies, as well as UN peacekeepers, shall be accountable for violation of human rights. Victims have the right to know the truth, to obtain redress, justice, reparation and to guarantees of non-recurrence. Refugees shall enjoy refugee status. Migrants should enjoy human rights without discrimination.
- The rights to development and to environment2.

Some States, which were aware of the premature interruption of the codification and progressive development of the human right to peace at the HR Council and the opposition showed by CSO, expressed their will to continue the discussion at the General Assembly. The GA itself decided "to continue consideration of the question of the promotion of the right to peace at its seventy-third session under the item entitled "Promotion and protection of human rights"3.

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1 *Vid* http://www.un.org/es/comun/docs/index.asp?symbol=A/RES/71/189&referer=/spanish/&Lang=E

2 Draft *UN Declaration on the Human Right to Peace* updated on 20 September 2017 and signed by 528 CSO available at
http://aedidh.org/wp-content/uploads/2017/09/Draft-UN-Declaration-HRP-20.9.17.pdf

3 In 2018. Paragraph 3 of GA res. 71/189.

For its part, the HR Council adopted in 2017 resolution 35/4, calling for a workshop to be held in 2018 on the implementation of the Declaration on the Right to Peace with participation of civil society4.

We invite the HR Council to appoint a Special Rapporteur on the Human Right to Peace, with the mandate of revising the 2016 Declaration in consultation with CSO and all interested stake-holders, so that the human right to peace and all its essential components be recognized.

In addition, the United Nations Conference adopted in 2017 the *treaty on the prohibition of nuclear weapons*5, including its production, stockpile, use or threaten to use nuclear weapons, as well as prohibition of any stationing, installation or deployment of any nuclear weapons.

While nuclear States and their allied did not take part in the vote, the adoption of the treaty, which is essential to maintain peace and international security, stressed once again that the GA has the majority to approve a new declaration or even a treaty recognizing the human right to peace and its essential components.

To conclude, the SSIHRL and the IOHRP, joined by 528 world-wide CSO which signed the draft UN Declaration on the Human Right to Peace updated on 20 September 2017, will continue promoting their draft because it acknowledges the interests of civil society, with a view to persuade States to revise the Declaration on the Right to Peace adopted by the GA in 2016, to the insatisfaction of the international civil society.

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4 Res. 35/4 of 22 June 2017. Adopted by 32 in favor, 11 against and 4 abstentions. The resolution was sponsored by Cuba and other developing countries.

5 Adopted on 7 July 2017 by 122 votes in favor, one against (Netherlands) and one abstention (Singapore). Doc. A/CONF.229/2017/L.3/Rev.1 of 6 July 2017 available at http://www.undocs.org/en/a/conf.229/2017/L.3/Rev.1
The treaty will require 50 ratifications to enter into force.

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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the public organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01731(E)
1801731

Please recycle

On the statement of His Beatitude Theophilos III Patriarch of Jerusalem concerning the rights violations of Christians and the threats to breach the Status Quo

Introduction

1. NGO "Public Advocacy" is a human rights organization in special consultative status with the UN Economic and Social Council, which enables us to promote the protection of human rights at the UN Human Rights Council as well as participate in meetings and conferences held by various international human rights bodies and mechanisms (our name in the ECOSOC database appears as Public Organization "Public Advocacy"). NGO "Public Advocacy" regularly submits human rights reports to the UN, the EU and other designated committees and commissions established by various international structures whose mandate is to protect human rights and ensure stability throughout the world.

2. This report sets forth the reAsociación Española para el Derecho Internacional de los Derechos Humanos AEDIDHasons why religious freedom of all religious communities under the jurisdiction of Israel must be promoted and protected, including the Orthodox Christians of the Jerusalem Patriarchate of the Greek Orthodox Church.

Religious freedom of the Orthodox Christian communities under pressure.

In July 2017 the heads of the Churches in Jerusalem were compelled to make a public statement of their concern in terms of breach of the Status Quo governing the Holy Sites and ensuring the rights and privileges of the Churches. This statement was further followed by another joint appeal in September 2017, stressing the following concerns over repeated encroachment on the Status Quo:

"We now find ourselves united once again in condemning recent further encroachment on the Status Quo. In such matters as this, the Heads of the Churches are resolute and united in our opposition to any action by any authority or group that undermines those laws, agreements, and regulations that have ordered our life for centuries.
We cannot stress strongly enough the very serious situation that this recent systematic assault on the Status Quo has had on the integrity of Jerusalem and on the well-being of the Christian communities of the Holy Land, as well as on the stability of our society."1

1. "The Bill of Church Lands".

On July 26th, an unprecedented draft law was put on the agenda of to the Knesset. It quickly gained support from about 40 lawmakers of the Knesset as their signatures appeared on the so called "Bill of Church Lands". All the Churches are deeply concerned about the unpredictable consequences following the adoption of the draft law, as it is directed at the severe restriction of their rights on the properties and lands they currently own.
According to Miss Anna Koulourism, Secretary at the Secretariat-General Office, who represented the Jerusalem Patriarchate at the 3rd Archon International Conference On Religious Freedom – The Persecution of Christians in the Middle East (Capitol Hill, Washington D.C. on December 5, 2017):

1 The appeal was signed by the following Patriarchs and Heads of Churches in Jerusalem: Patriarch Theophilos III, Greek Orthodox Patriarchate; Patriarch Nourhan Manougian, Armenian Apostolic Orthodox Patriarchate; Archbishop Pierbattista Pizzaballa, Apostolic Administrator, Latin Patriarchate; Fr. Francesco Patton, ofm, Custos of the Holy Land; Archbishop Anba Antonious, Coptic Orthodox Patriarchate, Jerusalem; Archbishop Swerios Malki Murad, Syrian Orthodox Patriarchate; Archbishop Aba Embakob, Ethiopian Orthodox Patriarchate; Archbishop Joseph-Jules Zerey, Greek-Melkite-Catholic Patriarchate; Archbishop Mosa El-Hage, Maronite Patriarchal Exarchate; Archbishop Suheil Dawani, Episcopal Church of Jerusalem and the Middle East; Bishop Munib Younan, Evangelical Lutheran Church in Jordan and the Holy Land; Bishop Pierre Malki, Syrian Catholic Patriarchal Exarchate; Msgr. Georges Dankaye', Armenian Catholic Patriarchal Exarchate. Find the full version of the statement here: http://www.jp-newsgate.net/en/2017/09/05/34706

*"It is the result of lobbying efforts from the Jewish National Fund and radical settler groups with a like-minded agenda to undercut the Churches, particularly the Patriarchate of Jerusalem, which is the largest property owner among them and which recently challenged the JNF for refusing to negotiate fairly on the extension of leases. Since July, a firestorm of baseless attacks in the media have fed into a campaign designed by the JNF [Jewish National Fund] to divert attention from their own errors and wrong-doing. Regardless of this bill's chance of passing into law, its mere concept and immediate backing by a third of the Knesset, already demonstrates a very dark reality. This is a turning point in which radical elements are fighting to strip Jerusalem of its multi-religious, multi-ethnic, and multi-cultural integrity"*2

In his supportive letter to the Patriarch of Jerusalem, Theophilos III and heads of Local Churches in Jerusalem, Vincent Cardinal Nichols, Archbishop of Westminster, President of the Catholic Bishops' Conference of England and Wales, states that:

"The Bill of Church Lands that has been proposed in the Knesset would grant the State the power to confiscate Church land. This proposal represents an intolerable infringement of the Status Quo and the legitimate rights of the Churches and should be recognised for what it is: an attack on the property rights of the Christian community.

We urge religious and political leaders in the United Kingdom and around the world to join us in speaking out against this threat to religious freedom, which would set a dangerous precedent for other faiths in the Holy Land.

*We also request those in authority in Jerusalem to act decisively to stop the actions of radical settler groups that seek to expand their control over properties in Jerusalem to the exclusion of residents of the City who are not Jewish."*3

In August 2017, at the press conference in Amman, the Patriarch of Jerusalem Theophilos III made a statement, asserting that the proposed draft law *"is a clear attempt to deprive Our 2,000-year-old Patriarchate, as well as Our fellow Churches present for centuries in the Holy Land, of our legitimate and historic freedom and independence. This intolerable bill, if passed, would be a clear violation of every international treaty that has governed the region, and would be an insupportable assault on the freedom of worship."*4

Historically, during the 19th century the Greek Orthodox Church acquired primarily for agriculture purposes some 4,500 dunams (1,110 acres) of real estate in the center of Jerusalem. This purchase made the Jerusalem Patriarchate the second biggest owner of land in Israel after the Israel Lands Authority. Afterwards, in the 1950s, just after Israel's independence, the Church agreed to lease its land to the Jewish National Fund (JNF) for 99 years with an option to extend for another 99 years. The Parliament of Israel (the Knesset) is also located on the lands owned by the Greek Orthodox Church. In 2011 and in 2016 respectively the Jerusalem Patriarchate signed two contracts with a view to sell the land to private investors.

2. "Jaffa Gate case".

Another issue regarding the infringements on religious freedom in Israel took place in July 2017 when the Jerusalem District Court issued its ruling against the Church mainly in terms of two landmark hotel buildings that belong to the Jerusalem Patriarchate on the right of ownership in the Old City's Jaffa Gate. In 2004, when the Patriarchate was headed by the now deposed Patriarch Irineos, an unauthorized contract for long-term leases was conducted with the radical settler group Ateret Cohanim.

This unlawful agreement has been challenged in court proceedings for ten years, *"during which it unequivocally proved that the person concluding the deal was not authorized by the Patriarchate, had received a bribe, that there was bad faith, conspiracy, and that agreements were made without the due authority of the Patriarchate. Despite the abundantly clear evidence, the Court ruled in favor of the settler group. An appeal has been filed, but a danger is materializing in*

2 http://www.jp-newsgate.net/en/2017/12/10/36398
3 http://catholicnews.org.uk/jerusalem-letter-191217
4 http://www.jp-newsgate.net/en/2017/08/12/34370

the meantime. These radical settler groups feel encouraged in their openly stated mission to "liberate the Holy Land from all non-Jewish elements."5

Miss Anna Koulourism, Secretary at the Secretariat-General Office, stresses that:
"Ateret Cohanim, and other radical settler groups, are propelled by an aggressive motive to remove non-Jews from Jerusalem, as well as certain Jews considered as non-conformant, and they're gaining ground, especially in the Old City, which is Jerusalem's crown and core. They use underhanded methods such as coercion and undue authority to acquire property, and in their view, "redeem the land." Jaffa Gate is one of the strategic centers for achieving this goal. It lies at the heart of the Christian Quarter and is the entryway artery to all the Churches' headquarters, as well as for hundreds of thousands of pilgrims who visit the Holy Sepulcher Church just meters away. If settlers gain control of this area via the Jaffa Gate properties and push out tenants with the type of intimidating and violent tactics they're notorious for using, they will be able to implement their vision to permanently change the Status Quo and work toward erasing the Christian presence from the Old City."6

Taking account of the abovementioned observations, we express our utmost concern about the current situation with religious freedom in Israel. We call on the international community and the responsible human rights bodies to immediately intervene into the evolving confrontation in Israel in order to prevent further encroachment on the Status Quo.

5 http://www.jp-newsgate.net/en/2017/12/10/36398
6 http://www.jp-newsgate.net/en/2017/12/10/36398

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Universal periodic review

Written statement* submitted by the public organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01733(E)
1801733

Please recycle

On violations of the rights of the Union of Orthodox Journalists (Ukraine) in relation to their professional activities

Freedom of speech and guarantees of independent journalistic activity should be provided by the state in the most effective ways.

The concept of responsibility for the protection foresees that the state is obliged to ensure human rights in its territory, especially the rights of professions that secure fundamental guarantees of democracy, such as freedom of speech and human rights activities.

Such guarantees should include the duty of the state to respond immediately to violations of the rights of journalists, especially in cases where such violations are open and cynical and premeditated.

The Union of Orthodox Journalists1 is an information agency, registered in accordance with the legislation of Ukraine and legally carrying out its activities in the territory of Ukraine. The organization was established by the journalists of mainly Orthodox faith with a view to publishing and disseminating information about the religious life of the country. The UOJ has been providing extensive coverage of violations of the rights of the Ukrainian Orthodox Church, in particular, the events related to illegal church seizures, beating of the UOC believers, evidence of hate speech towards religious communities by radical organizations and civil servants.

On January 25, 2018, about 20 people in balaclavas violently broke into the office of the UOJ2 and blocked the work of the editorial staff. These people videotaped their actions on mobile video cameras and broadcast the goings-on in a stream mode on the Internet on the page of their organization in Facebook3. The attackers claimed that they were activists of the radical organization S14. The perpetrators searched the premises, examined the documentation and computer data, and then began to insult and threaten the journalists and employees of the organization who were present in the room, negatively speaking about their activities. A significant number of violators did not hide their faces and openly bullied at the journalists. The reason for the threats was the human rights activity of journalists on the coverage of rights violations of the Ukrainian Orthodox Church. In the course of the violence, the hard disk was stolen from the editorial office, which contained journalistic materials and various personal data. During the attack, literature and documents concerning the activities of the editorial office were stolen too.

The police officers, who arrived at the call of the UOJ, found the violators at the scene of the offense, but did not take any action to detain the persons who had illegally penetrated into the editorial office. Also, the police did not identify the personalities of these individuals.

Immediately after the attack on the editorial board of the UOJ, members of this radical organization undertook an open attack of the Tithes Monastery of the Ukrainian Orthodox Church4, destroying the fence of the worship building. Furthermore, on January 28, 2018, a video recording of the attempts by activists of this organization to dismantle the building of the temple of the Ukrainian Orthodox Church in Lvov5 appeared on the page called "S14Lvov". The offenders filmed all their actions on video and published it in open access in Facebook, not even bothering to hide their personalities.

1http://uoj.org.ua/en/
2http://uoj.org.ua/en/novosti/sobytiya/uoj-gives-details-of-s14-attack-on-editorial-office
3https://www.facebook.com/c14news/videos/1481093365328290/
4https://www.facebook.com/c14news/videos/1481170721987221/
5https://www.facebook.com/c14lviv/videos/189769168284147/

In accordance with the legislation of Ukraine, the actions of offenders contain signs of such crimes as "Arbitrariness" – Art. 356 of the Criminal Code of Ukraine, "Illegal obstruction of journalistic activity" – Art. 171 of the Criminal Code of Ukraine, "Incitement to religious enmity" – Art. 161 of the Criminal Code of Ukraine, theft of property.

Unfortunately, violations of the journalists' rights still occur in Ukraine. In fact, according to the **National Union of Journalists of Ukraine, since the beginning of 2017, there have been recorded 85 cases of beating of mass media representatives.** According to the information of the General Prosecutor's Office of Ukraine, only for the first half of the year in 2016 there were 113 criminal offenses against journalists.

However, the offense committed against the Union of Orthodox Journalists is not only an individual violation of rights, but also an open public attack on freedom of speech in the state. The demonstrative nature of the offense committed, as well as the fact of the video recording of the crime incident by the offenders themselves, is aimed at showing the world there is no democracy and respect for human rights in Ukraine. This offense is also characterized by the fact that it was perpetrated in connection with the journalists defending the freedom of religion and being engaged in human rights activities, highlighting violations of the rights of believers within the Ukrainian Orthodox Church.

We believe that the state of Ukraine must immediately respond to the violation of rights of the Union of Orthodox Journalists by bringing the perpetrators to justice. Only in this case can we be convinced that Ukraine really strives to follow the values of democracy and ensures law and order based on the principles of the Rule of Law and respect for the individual.

The essential point of the case is that on January 27, 2018, i.e. two days after the attack on the UOJ office, personal data of the journalists of this organization were published on the site "Mirotvorets" (Peacemaker). This website has been criticized by the journalistic and human rights community for publishing personal data of journalists and others, accusing them of anti-Ukrainian activities. The site contains rhetoric of hatred and may serve as a springboard in the organization of physical harassment of people, including those engaged in the journalistic and human rights field. In particular, this website published the name and personal details of the place of residence of journalist and clergyman of the Ukrainian Orthodox Church Aleksei Zoshchuk, who is considered by offenders to be the head of the Union of Orthodox Journalists. His "corpus delicti" is indicated on this Internet resource as follows: "Propaganda of the Russian world in Ukraine under the guise of religious activities. Curator-ideologist of the propagandist wing of the Moscow Church in Ukraine. Conscious manipulation of socially significant information in the interests of the aggressor country. Defines the policy of the so-called "Union of Orthodox Journalists."

Alongside the name of Aleksei Zoshchuk, personal data of the UOJ journalists Anna Poddubnaya and Valery Stupnitsky were posted on this site.

The fact of placing personal data of Ukrainian journalists, together with the impunity of the violent public action against them, testifies to the erosion of the legal system of the state.

At the same time, one cannot but be concerned with the significant increase in the aggression towards believers of the Ukrainian Orthodox Church, especially in view of the fact that the attack on journalists was caused by their belonging to the Orthodox Church and professional activity with regard to religious life.

In Ukraine, the extensive involvement of mass media in spreading hate speech, including against the believers of the Ukrainian Orthodox Church, is materializing. Dissent and disagreement with the pattern, imposed on society by radical and nationalist organizations, are subject to persecutions. In this regard, the violent action against the Union of Orthodox Journalists is a chain being interwoven with the subsequent conflict situations, the destruction of property and threats against religious organizations and individual believers.

The State of Ukraine should immediately ensure the protection of the right to freedom of speech in Ukraine and guarantee the possibility of independent journalistic activity. Achieving this goal is impossible without bringing to account those who publicly and pointedly demonstrate disregard for the democratic standards of society and carry out terror and violence as their regular practice.

We remind and draw attention to the fact that journalistic activities to ensure freedom of speech is the most important linchpin of a democratic society, and freedom of religion is a guarantee of religious peace in the sensitive sphere of personal convictions. The incitement of religious enmity towards the Ukrainian Orthodox Church, as witnessed in Ukraine, which is combined with public persecutions against activists, human rights activists and journalists working in the sphere of religious freedom, pose a real threat to the country.

We handed over a detailed report on violations of the rights of the UOC believers to the UN Human Rights Council under the procedure of the Universal Periodic Review on Ukraine of the 28th session of the HRC6.
We call on the UN Human Rights Council, the international community, human rights organizations, diplomatic delegations of the states not only to pay attention, but also to ensure the protection of human rights in Ukraine, using all the existing means of an international human rights mechanism.

6https://www.upr-info.org/sites/default/files/document/ukraine/session_28_-_november_2017/npa_upr28_ukr_e_main.pdf

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Association for Defending Victims of Terrorism, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01734(E)
1801734

Please recycle

Justice and Reparation as a Guarantee for Preventing Repetition of Crime

The lack of a balanced order at international arena and inadequate living conditions in human communities and discrimination, injustice, and foreign interference in the internal affairs of states have led to extremism, violence and terrorism. As a result, it increases insecurity, instability and massacre of thousands of innocent people all over the world, whom we know as victims of terrorism.

Given that victims of terror always seek a peaceful life with tolerance, its primary condition is the exercise of transitional justice, by means of which the issue of reparation and administering justice may become operational and the society may move towards stability and peace.

Association for the Defending Victims of Terrorism would like to hold an international conference on "Transitional Justice and Victims of Terrorism" in cooperation with international academic centers and independent journals in order to explain the issue, and then present the scientific achievements to the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence so that they can be distributed to states and human rights bodies.

To promote the supportive measures for victim of terrorism and provide effective litigation and compensatory measures for victims of terrorism, ADVT calls on the Special Rapporteur to consider the issue of investigating violations of the rights of victims and survivors of terrorist acts, responding to victims' complaints, prosecuting and punishing the perpetrators of terrorist acts and their supporters. The Association recommends that these issues be taken into account in the next report of the mandate holder in order to ensure the non-recurrence of the crime and provide access to justice for the victims.

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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Association for Defending Victims of Terrorism, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1801938

Please recycle

Paragons of Patience as an Effective Measure for Constraining Terrorism

Terrorism is a global threat and an organized form of extremism. The appalling phenomenon has taken the lives of hundreds of thousands of human beings, especially women and children in such a way that it has endangered human security and life.

Terrorism inflicts a large number of destructive effects on society. Terrorists try to intimidate people in order to prevent the society from gaining access to fundamental rights, and security. Terrorism has endangered human rights, threatened democracy and challenged fundamental rights for a peaceful life. Therefore, we are faced with a great threat, a threat which uses modern tools in the worst way possible and fills the third millennium with anxiety and fear for all humanity.

There are still new victims in the world. The victims of terrorism are on the increase. Today, millions of people have been affected in terrorist attacks in different countries such as Iraq, Pakistan, Afghanistan, Yemen, Somalia, Nigeria, Thailand, the Russian Federation, the Philippines, Lebanon, the Syrian Arab Republic, India, the Islamic Republic of Iran, France, Norway, Sweden and the United States of America.

Association for Defending Victims of Terrorism believes that commemorating the victims of terrorism can be a reaction in condemning the terrorist crimes and a symbolic trial of perpetrators in the world's public opinion.

Thus, we call on human rights activists as well as the elites to take effective measures in introducing the victims as paragons of patience and forbearance with the express purpose of constraining terrorism.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Charitable Institute for Protecting Social Victims, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01768(E)
1801768

Please recycle

Violence against Children*

Many factors underlie violence in the community, including poverty, discrimination, social exclusion, lack of access to social services and healthy recreation, food insecurity, deficiencies in governance, repressive and militarized action from security forces and the presence of organized crime. These factors may be not only causes, but also consequences of violence.

In the all abovementioned causes, armed violence compromises children's rights and is associated with serious risks for their development and safety, causing children to be injured, disabled, traumatized, exploited, orphaned, imprisoned and at times killed. Living in a community affected by armed violence has consequences for children who are targeted as well as those who witness or feel threatened by such an environment. Armed violence disrupts social harmony and family life, interrupts schooling, compromises health care, undermines economic development and generates fear which limits children's ability to move freely, participate in the life of their community, enjoy childhood and develop as empowered citizens.

In recent years, the world witnesses that armed violence and terrorism has increasingly been associated with violent extremism, with groups that support or use violence to achieve ideological or political goals, sometimes distorting religious values to legitimize their action. Violent extremism endangers the safety and human rights of children including through murder, rape, kidnapping and displacement. An additional sinister dimension is the incitement of young people to commit violent acts, including by promoting their engagement as child soldiers and suicide bombers. Transcending nationality, religion or ethnicity, the destructive combination of these three phenomena is a global concern that undermines peace and security, development, human rights and humanitarian action.

Children exposed to gun violence may experience negative short and long-term psychological effects, including anger, withdrawal, post-traumatic stress, and desensitization to violence, sleep disturbances, intrusive thoughts about the traumatic event, difficulty concentrating in the classroom, a decline in academic performance, and lower educational and career aspirations. Other outcomes include increased delinquency, risky sexual behaviors, and substance abuse. The effects are more acute for children who are direct victims of gun violence, or who live in communities where they witness gun violence repeatedly

Protecting children from the impact of armed violence in the community is a priority concern for all part of the society, because they are the future of the world. So the charitable institute for protecting social victims and International Society for Supporting Victims of Terrorism urge the human rights council and its mandate holders, specially the Special Representative of the secretary General on Violence against children to recall the member states:

- Implementation of comprehensive and data-driven national action plans on the prevention and elimination of armed violence
- incorporation of restorative justice approaches at all levels of the criminal justice system
- Investment in comprehensive, integrated and prevention approach

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*International Society for supporting Victims of Terrorism, an NGO without consultative status, also shares the views expressed in this statement.

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Written statement* submitted by the Charitable Institute for Protecting Social Victims, a non-governmental organization in special consultative status

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Please recycle

Interactive dialogue with the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*

International terrorism has come to represent the greatest global threat to the goals of the United Nations: protecting international peace and security and promoting human rights. The number of extremist terrorist organizations has proliferated and their mode of operation has developed such that some now control large swathes of territory, have fractured the territorial integrity of States, are well funded and active in recruiting foreign terrorist fighters, and participate in protracted and widespread armed conflict. In the current global context, many of the gravest and most widespread human rights violations are perpetrated by or on behalf of non-State armed groups.

Any acts of terrorism are criminal and unjustifiable, regardless of their motivation, wherever, whenever and by whomsoever committed

International terrorism now represents the single greatest threat to the United Nations twin goals of protecting international peace and security and promoting human rights. The consequences of terrorism remain dire, not only for those directly affected by the gross violations of human rights perpetrated by terrorist groups, but also more broadly, through proliferation of asymmetrical armed conflicts and massive displacement of civilians from areas controlled by terrorist groups.

When a terrorist attack occurs, serious challenges happen. Victims and their families often need legal and financial aid to quickly to rebuild what they have lost.

Meanwhile no concrete steps have yet been taken to adopt an international instrument enshrining the rights of victims of terrorism. Such an instrument would contribute to a comprehensive and coordinated global counter-terrorism strategy and would ensure that victims of terrorism are not exploited by States for essentially political purposes. On the other hand there have still been few effective investigations, prosecutions or other means of holding accountable individuals involved in the secret detention, rendition and torture of suspected terrorists.

The United Nations should to be able to deliver a coherent and comprehensive response to the security and human rights challenges posed by international terrorism. A response which addresses the need to promote the prevention and suppression of terrorism; the need to prevent the spread of violent extremism; and the need to protect and promote human rights while countering terrorism.

Of the various responses to terrorist acts, the criminal justice response is the only effective, long-lasting reaction, consistent with the rule of law, to a phenomenon that ultimately will not receive a name other than a criminal offence. In strengthening the effectiveness of their criminal justice systems in particular regarding their ability to cope with large-scale crimes, Member States should pay specific attention to the support afforded to victims and to the particular challenges faced by victims of acts of terrorism.

The Charitable Institute for Protecting Social Victims and International Society for Supporting Victims of Terrorism urge the Human rights council ad its expert mandate holder to assure that:

- Victims of terrorism to sue the perpetrators of terrorism and those that support them in a Canadian court, including foreign states listed by the Government. Victims can seek redress for terrorist acts committed anywhere in the world
- to combat by all means, in accordance with the UN Charter as well as other obligations under international law, including international human rights law, international refugee law and international humanitarian law, threats to international peace and security caused by terrorist acts

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*International Society for Supporting Victims of terrorism, an NGO without consultative status, also shares the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Charitable Institute for Protecting Social Victims, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.18-01770(E)
1801770

Please recycle

Interactive Dialogue with Special Rapporteur on freedom of religion or belief*

Human rights are universal rights in the sense of being intimately linked to the humanness of the human being and hence of all human beings equally. In the first sentence of article 1 of the Universal Declaration of Human Rights, it is stated that "All human beings are born free and equal in dignity and rights". Because of its nature as a universal human right, to which all human beings are entitled, freedom of religion or belief must be interpreted broadly. It cannot be confined to particular lists of religious or belief-related "options" predefined by States, within which people are supposed to remain. Instead, the starting point must be the self-definition of all human beings in the vast area of religions and beliefs, which includes identity-shaping existential convictions as well as various practices connected to such convictions. In paragraph 2 of its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, the Human Rights Committee corroborated such an open, inclusive understanding by clarifying that article 18 of the International Covenant on Civil and Political Rights protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief, and that the terms "belief" and "religion" are to be broadly construed. The Human Rights Committee also stressed that article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. One should add that freedom of religion or belief also covers the rights of members of large and small communities, minorities and minorities within minorities, traditionalists and liberals, converts and reconverts, dissenters and other critical voices and, last but not least, women, who sadly still occupy marginalized positions within many religious traditions.

Freedom of religion or belief does not only prohibit undue encroachments on the freedom of a person or a group of persons; it also prohibits discrimination —that is, the denial of equality — on the basis of religion or belief. For example, in article 2 of the Universal Declaration of Human Rights it is asserted that: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Article 2 (1) of the International Covenant on Civil and Political Rights extends the same guarantee of non-discrimination to all individuals within the territory of a State party and to those subject to its jurisdiction. 1 Furthermore, it is confirmed in article 2 (1) of the 1981 Declaration that "no one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or belief", thus the component of "belief" is also included. A strong message is sent in article 3 of the 1981 Declaration, in which it is stated that: "Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations".

There was an increasing level of Islamophobia under tne covered period, indicated by the growing fear against Islam and Muslims in certain parts of the world which led to negative perceptions among non-Muslims. Within such circumstances, Islam was seen as a serious threat; a religion of intrinsic violence whose disciples had a tendency to spread harm to the followers of other religions. Islam has been portrayed as an 'alien' religion prone to bloodshed, a stigma that trigger intolerant attitudes amongst non-Muslims *vis-à-vis* their otherwise. These negative stereotyping eventually ended up into negative sentiments, dread or hatred of Islam that includes multi-level discrimination against Muslims, manifested into exclusion of Muslims around the world from the economic, social, and public life.

On the other hand such a new wave of terrorism has brought about a huge impact on Islamophobia, for the number of incident have multiplied almost everywhere across the globe. Particularly in Europe, innocent Muslims have been victimized, facing immediate backlash while the sentiment soon transformed into a bold stigma: that Islam encourages violence; that the religion is not really compatible with liberal values; that Muslims prone to be extremists and terrorists; that Islam is an out-of-date religion which need a Reformation to adapt modernity; and so on.

Charitable institute for protecting social victims and International Society for Supporting Victims of Terrorism urge the human rights council to once again recall the member states their responsibility regarding promotion and protection of rights to freedom of religion and belief.

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*International Society for Supporting Victims of Terrorism, an NGO without consultative status, also shares the views expressed in this statement.

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Human rights situations that require the Council's attention

Written statement* submitted by the Family Health Association of Iran, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1801771

Please recycle

The Health Status of Female Prisoners in Iran

The right to health in the human rights declaration is very important. The right to health is beyond the absence of disease and has various physical, psychological and social dimensions. This right requires equal opportunity for all people to access the facilities, services and provisions to meet the appropriate standards specified in the human rights declaration. The Universal Declaration of Human Rights (1948) considers health as part of basic living standards and requires health care along with food, clothing, housing and essential social services as a minimum economic and social provision for individual living standards.

In many societies, attention to health and access to healthcare for vulnerable women, including female prisoners has been neglected they have the lowest levels of access to health services. The Islamic Republic of Iran has made improvements in the health status of female prisoners as one of their priorities and has made many efforts in this regard.

In order to improve the health of this group the Islamic Republic of Iran has opened specialized clinics, triangular clinics and midwifery clinics to reduce harm as well as all specialized medical and para-clinical services, proper nutrition and sports equipment for physical activity is now available to female prisoners for free.

In obstetric and gynaecological clinics, counselling and all reproductive health services are now available; including training, prevention, and treatment in the field of sexually transmitted disease, family planning services, vaccination and treatment of women's disease is carried out. Women even have the right to conjugal visits with their husbands for 24 hours in suitable rooms. Clients are referred to specialized hospitals if they need treatment at the hospital.

Family Health Association of Iran (FHA Iran) has a Memorandum of understanding with the prisons organizations which has benefitted vulnerable women in partnership with the Prisons Organization, in such areas as education, counselling and health services, and harm reduction services, education for sexually transmitted diseases, especially hepatitis C and HIV / AIDS, and empowering women to create jobs, entrepreneurship and income generation.

FHA Iran has always emphasized on the access of female prisoners to health services, health care and counselling, so that this group of vulnerable women, like other groups of women, has the right to health.

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Written statement* submitted by the Family Health Association of Iran, a non-governmental organization in special consultative status

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GE.18-01772(E)

1801772

Please recycle

Human rights violations against Rohingya Muslims

Racism and racial discrimination has always been one of the most important problems in human history and is a violation of the Universal statement of Human Rights (1948) which has given all people equality and a life free from discrimination.

The Human rights declaration states that everyone has the right to life, liberty and personal security, no one can be subjected to torture or capital punishment, everyone has the right to freedom of thought and religion, and everyone has the right to freedom of expression and opinion.

Today, unfortunately, these minimum human rights are not respected by the Myanmar government, and Rohingya Muslims face the strictest violations of their human rights for being Muslim and for having different ideas to the majority of people in that society which are the main reasons for this treatment. Thousands have been killed, wounded and displaced by the Myanmar Army's attacks on Muslims and the situation of women and children is much worse. The Myanmar army kills men and assaults women, many Muslims are forced to move from their country, which, according to the Universal Declaration of Human Rights, is one of the fundamental and basic rights of humans living in their homeland.

In other words, Myanmar's Muslims do not have any citizenship rights, which is a crime against humanity. Therefore, all governmental and non-governmental organizations and governments must unite against these crimes because in the twenty-first century such crimes are unacceptable and will be judged by posterity to be very ugly.

The importance of this issue is such that the Family Health Association of Iran, as an Iranian NGO is condemning these crimes and has called on the Government of Myanmar to stop the brutality and we have urged the United Nations Human Rights Council to pressure the Myanmar government to recognize the human rights of Muslims in Rohingya.

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Written statement* submitted by the Family Health Association of Iran, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.18-01737(E)
1801737

Please recycle

Human Rights Violations against Yemeni Women and Children

The international community, through the ratification of international conventions, such as the Geneva and The Hague Conventions, has sought to establish a basic humanitarian principle at the time of the war. Although these conventions do not prevent war, but they do lower the extent of human suffering and pain endured by the warring parties while insisting on the human right of individuals to wellbeing and health.

Yemen is a country in the midst of a humanitarian catastrophe, a country that had suffered from political instability, lawlessness and tribalism, environmental crises and widespread poverty for many years.

As we are speaking, the people of Yemen have to procure their drinking water from unsafe and infested sources, contributing to the spread of cholera, which has reached epidemic proportions. There are around 200 thousand suspected cases of cholera which have caused 13 thousand deaths, one fourth of them being children, and the total death count can only be expected to rise further.

Around 70 percent of the Yemeni people are in dire need of humanitarian aid and assistance. Due to lack of access to health services, maternal, infant and child mortality is skyrocketing and malnutrition among women and children; especially pregnant women have become increasingly common.

The Family Health Association of Iran, the full member of the International Planned Parenthood Federation, expresses its total support for peace in Yemen hereby and calls on the international community and the UN Human Rights Council to pay special attention to establishment Peace and the observance of human rights and access to health and medical services for the Yemeni people and the elimination of all forms of violence, especially for women and children.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Commission of Jurists, a non-governmental organization in special consultative status

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1801739

Please recycle

Transitional justice and prevention: the obstacle of impunity

The joint study of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser of the Secretary-General on the Prevention of Genocide, has as its welcome focus, the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law.

The International Commission of Jurists (ICJ) remains deeply concerned by continuing impunity for gross human rights violations in many parts of the world, which undermines the potential for transiational justice to contribute to prevention. It urges the relevant governments to take concrete action to ensure that transitional justice mechanisms and outcomes can fulfil their potential to help prevent recurrences in the future.

Peru: pardon and "right of grace" to former President Fujimori

One example is the pardon and "right of grace" granted in December 2017 by the President of Peru to former President Alberto Fujimori, for gross violations of human rights and other crimes1. The ICJ considers that the content and scope of these measures constitute a violation by Peru of its obligations under international law.

The pardon and "right of grace" granted to former President Alberto Fujimori annul the execution of the 2009 Supreme Court ruling, which sentenced Fujimori to 25 years in prison for gross human rights violations. In addition, these measures exempt former President Fujimori from several criminal proceedings currently underway and prevent further investigations against the former president for several cases of gross human rights violations, such as the Pativilca massacre and the forced sterilization of around 300 thousand women.

These measures undermine the rule of law and constitute an attack on the integrity of the judiciary, as well as an attempt to maintain impunity for the crimes against humanity and gross violations of human rights committed in Peru during the presidential administration of Alberto Fujimori between 1990 and 2000. In addition, by preventing criminal proceedings and investigations for gross violations of human rights, currently in progress, these measures deny victims and their families the rights to an effective remedy, truth and reparation, leaving them in a state of helplessness.

Likewise, the pardon and "right of grace" granted to former President Fujimori demonstrate flagrant disrespect for the judgments of the Inter-American Court of Human Rights and recommendations of UN human rights treaty bodies. Indeed, in its judgments concerning the cases of Barrios Altos and La Cantuta, the Inter-American Court reminded Peru that "all amnesty provisions, provisions on prescription and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by international human rights law."2 For its part, in 2000, the Human Rights Committee urged Peru "to refrain from adopting a new amnesty act."3.

The ICJ recalls that under international law - both treaty based and customary - crimes against humanity and gross violations of human rights cannot be the subject of amnesties, pardons or similar measures that prevent these crimes from being investigated, prosecuted and punished with penalties proportional to the seriousness of the illicit acts.

The ICJ also recalls that, under international law, the fact that the perpetrator of these crimes has acted as Head of State does not exempt the person from criminal responsibility or constitute a ground for the reduction of the sentence or a

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[1] Supreme Resolution No. 281-2017-JUS of December 24, 2017

[2] Case of Barrios Altos v. Peru (Merits), Judgment of March 14, 2001, Series C No. 75, para. 41. See also, Case of La Cantuta v. Peru (Merits, Reparations and Costs), Judgment of November 29, 2006, Series C No. 162, para. 152.

[3] "Concluding observations by the Human Rights Committee: Peru", CCPR/CO/70/PER, 15 November 2000, para. 9.

mitigating circumstance. In this regard, it is worth remembering that the Human Rights Council has stressed that the rule of law requires "that no individual or public or private institution is above the law."[4]

The ICJ urges the Government of Peru to nullify the pardon and "right of grace" granted to former President Fujimori, and to refrain from similar acts in the future.

Nepal: transitional justice mechanisms ineffective

A further example comes from Nepal, where more than ten years after Nepal's decade-long conflict, as in the years preceding the civil war, political expediency has trumped calls for justice and accountability. There has been near absolute impunity for those responsible for serious crimes under international law.

Transitional justice mechanisms in Nepal – the Truth and Reconciliation Commission (TRC) and Commission on Investigation of Disappeared Persons (CoID) - have fallen short of international standards, both in constitution and operation, despite the repeated reinforcement of such standards by the Supreme Court of Nepal.

The Commissions have deeply flawed mandates - which, among other problems, allow the Commissions to recommend amnesties for gross human rights violations. The non-consultative and opaque approach of the Commissions has also created distrust with all major stakeholders including conflict victims and members of civil society, who remain suspicious of the transitional justice process.[5]

As of December 2017, the TRC had received 60,298 complaints and the CoID had received 3093 complaints.[6] Of these complaints, investigations have been initiated in only in a handful of cases, suggesting that these institutions have neither the capacity nor the political will to respond effectively to victims' demands. On 20 January 2018, the President approved an Ordinance to extend the mandate of both institutions without addressing any underlying problems, including the need for amendment of the laws governing their mandates and working procedures as had been directed by the Supreme Court.[7]

Court orders and the recommendations of the National Human Rights Commission (NHRC) remain largely unimplemented. According to a report commissioned by the ICJ and National Judicial Academy in 2016, 55.18 per cent of Supreme Court and Appellate Court orders on transitional justice are unimplemented.[8] The NHRC has reported that a mere 14 per cent report of its recommendations have been fully implemented during the last 10 years.[9]

Despite the well-documented failures of the many *ad hoc* commissions of inquiry (COI),[10] the Government continues to form CoIs to investigate cases of ongoing human rights violations, and continues the practice of withholding their conclusions from the public. Most notably, on 18 September 2016, a CoI was formed to investigate the protest in *Terai-Madhesh*, during which 66 persons including 10 security personnel and three minors were killed. The commission submitted its report to Prime Minister on 15 December 2017. However, the report has yet to be made public, despite pressure from civil society, and without any legitimate justification.[11]

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[4] Resolution 19/36 "Human rights, democracy and the rule of law" of 23 March 2012, par. 16.

[5] The TRC and CoID were established in Nepal on February 10, 2015 with a two year mandate, extended for one more year on February 9, 2017.

[6] Data received from the TRC and CoID in December 2017.

[7] Suman Adhikari et al v. Prime Minister and Council of Ministers, Nepal Law Journal 2071, volume 12.

[8] Study Report on Execution Status of the Supreme Court and Appellate Court Orders: judgment relating to Transitional Justice, National Judicial Academy (NJA) and International Commission of Jurists (ICJ), 2016.

[9] Ten Years of Comprehensive Peace Agreement: Human Rights Situation, a brief report, National Human Rights Commission, Nepal, 20 November 2016.

[10] Commission of inquiry in Nepal: Denying Remedy, Entrenching Impunity, ICJ 2012, available at https://www.icj.org/wp-content/uploads/2012/06/Nepal-Commissions-of-Inquiry-thematic-report-2012.pdf

[11] THRD Alliance, http://www.thrda.org/thrd-alliance-calls-make-public-inquiry-commissions-report-terai-killings.

The Government continues to flout Supreme Court orders directing it to enact domestic legislation to criminalize serious crimes in accordance with international standards.

While the ICJ welcomes provisions of the recently enacted Criminal Code that will criminalize, torture, enforced disappearance, and genocide (effective from August 2018),[12] the definitions of these crimes fall short of international standards. Other problems remain unaddressed; for instance, the statute of limitation for rape (one year) acts to exclude victims of sexual and gender based violence occurring during the conflict from seeking a remedy in the courts.

The ICJ calls upon the Government of Nepal to:

a) Amend the TRC Act, 2014, in line with the Supreme Court ruling and international standards;

b) Take measures to ensure that any transitional justice process takes a consultative approach to addressing victim's concerns;

c) Make public the report of the CoI on the *Madhesh* Movement;

d) Criminalize serious crimes under international law including torture, enforced disappearance, and crime against humanity in conformity with international standards and with retroactive effect so as to address past human rights violations; and extend or remove the statute of limitations for rape.

[12] The criminal code, Penal Code, Criminal Procedural Code, Civil code and civil procedural code were endorsed by the Legislative – Parliament on August 9, 2017, approved by the President on October 16, 2017 and will come into force from September 17, 2018.

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Written statement* submitted by Human Rights Advocates, Inc., a non-governmental organization in special consultative status

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Please recycle

Reparations for Torture of Women and Girls

International institutions have long had influence in unifying nation States and establishing core human rights fundamental to the human race. Among these rights is the basic principle that each individual should live and be free from the infliction of torture. Article 1 of the Convention Against Torture defines torture as "any act by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person for such purposes as to obtain from him or a third person information or a confession . . . " International law has extended prohibitions of those acts which would amount to torture, but lack the necessary purpose or involve less severe physical or mental pain as a means to protect all persons from being subjected to "cruel, inhuman or degrading treatment."1 Essentially, international law has expanded the original definition to encompass instances of torture not previously considered in an attempt to provide the utmost protections and reparations.

The world climate is an organic social environment constantly growing and changing provoking waves of peace and violence in every corner of the globe. While contemporary examples of torture are generally associated with infliction of cruel and degrading punishment on men suspected of terrorism or those abused by tyrannical governments, women and children are often left out of the conversation despite the abundance of stories which provide evidence of them as victims of torture. Many are victims of sexual violence and gender-based crimes, which have not always been recognized on an international level as constituting torture. Torture against women and children is used as a means to "exert control, to dominate and encourage submission"2 in a society that shamefully promotes misogyny. Particularly for women and girls, torture can be experienced in a variety of ways and places including detainment cells by police officers, as the consequence of warring political groups, and by their own husbands in the home. These women and girls are "maimed, sexually mutilated, enslaved, raped – often repeatedly. . . ."3 Many of these women and children come from marginalized communities were barriers to court systems and the obtainment of reparations is seldom successful.

Redress for crimes of torture is and should be a strong interest and has previously been the focus of the Special Rapporteur's Report.4 Reparations have been affirmed by a number of international institutions and nation States as a means to reconcile the pain and suffering experienced. Reparations have been codified in a number of treaties and agreements including the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It should be of utmost importance to protect those most vulnerable to instances of torture who have the least access to redress, as is the case with many women and girls.

Issues Obtaining Reparations

In 2005, the UN General Assembly adopted the "Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law."5 These guidelines provide that the "modality of reparations must be proportional to the gravity of the violation."6 While there is no means of providing redress that would restore any woman or child experiencing gender-violence to their former selves, the reparations guidelines permit States to fall short on other fronts. The categories of such reparations include: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The Convention on the Elimination of all Forms of Discrimination Against Women explicitly states that the State has the duty to develop domestic legislation aimed at preventing and punishing acts of torture and to provide

1 The Legal Prohibition Against Torture, Human Rights Watch (2004) https://www.hrw.org/news/2003/03/11/legal-prohibition-against-torture#What discussing the Convention Against Torture and its evolution to include more types of violence.

2Ferstman, Carla., Procedural and Substantive Obstacles to Reparations for Women Subjected to Violence (2010) available at: http://www2.ohchr.org/english/issues/women/rapporteur/docs/side_event_june2010/CarlaFerstman.pdf

3 Id. at 2.

4Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, UN Doc. A/HRC/14/22 (April 19, 2010)

5 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted on 16 December 2005 (A/RES/60/147, 21 March 2006)

6 Id.

redress for women subjected to such violence. However, because many of these women face obstacles to obtaining reparations, the system itself fails unless it provides means of destroying those barriers and creating gender equality that would make access to the courts more feasible.

One expert has identified that the failure of investigative bodies to probe crimes from a gender perspective provides inadequate evidence and less gender-based charges for torture making redress unavailable.7 She also found, the inability to collect the evidence essential to prove claims of torture, particularly in instances of rape and genital mutilation, have posed a substantial deterrent to claims brought by women and children. Without substantial evidence, which sometimes cannot be procured without posing a danger to the victim, many of these claims will not progress through the necessary stages of the court system in order to receive reparation, in the form of medical and psychological services and monetary compensation. Evidence collection, including victim and witness accounts, can also be extremely traumatic forcing victims to balance their need for justice with the possibility that they may never prove their claims.

Societal barriers to judicial systems also prevent women and girls from bringing successful claims of torture and obtaining reparations. Many women and girls are from marginalized societies where their public status hinder them from exercising their rights or accessing judicial systems. Some cannot access the courts due to geographical location or unwillingness of the community to recognize sexual and in-home violence as torture. These barriers encompass many marginalized women and girls who cannot be reached by NGOs or government institutions who provide aid.

Moving Forward: Making Accessibility and Obtainment of Reparations Possible

The barriers for women and girls to obtain reparations, tasked with addressing and rectifying the violence that they have endured, should be at the center of the discussion on torture and redress. Human Rights Advocates urges that the Human Rights Council request that States recognize this type of torture and remember their obligations to prohibit, prevent, and redress the violence perpetrated on women and girls around the world, and urges world leaders to address issues preventing these victims from obtaining reparations for the torture they have endured and to reestablish their dedication to prohibiting and preventing all forms of torture as well as committing to their treaty obligations to prosecute such crimes. These States should seek new legislation aimed at achieving these goals and the development of reparations systems that adequately address the issues that women and children torture victims face.

States should create and maintain programs that educate women and girls on their rights and bring awareness to gender-based, sexual, and general torture inflicted on women and girls. Awareness of these crimes, domestically and internationally, would encourage continued involvement of NGOs and government agencies to combat violence amounting to torture and continue to improve the lives of women and children most vulnerable to violent situations. These programs should create efficient avenues for victims to access the court systems and understand the claims process for reparations.

The establishment of the Voluntary Fund for Victims of Torture8 (VFVT) has made positive steps towards assisting victims and their families rebuild their lives by providing immediate and essential services and remedies. However, if these victims cannot establish their claims, those services may never be accessible to them. States should seek to improve investigative techniques that make the process of investigating claims easier on women and children. That would require States to implement legislation aimed at improving the status and public voice of women and children, particularly in marginalized communities. They should seek to prohibit all forms of gender-based torture and establish protections for women and children in public and at home. Through this legislation, women and children should be guaranteed redress for legitimate claims of gender-based crimes amounting to torture.

States should create educational programs that help victims understand their rights and the judicial process. Currently, the VFVT establishes funds available to NGOs and other service groups to provide reparations, in various forms, to victims of torture and their families. Without a stable budget and continued monetary support, many services will not continue to be available to victims.

Lastly, those institutions tasked with providing services and redress for torture should focus on all available forms of rehabilitation beyond monetary compensation. While monetary compensation for the pain that has been inflicted should be an essential part, psychological, medical, and educational services are vital to restoring any victim back to their former selves. Also, States should target their reparative agendas towards community restructuring with

7 Feerstman, *supra* note 3.

8 "United Nations Voluntary Fund for Victims of Torture"
http://www.ohchr.org/EN/Issues/Torture/UNVFT/Pages/WhattheFundAdmin.aspx

the purpose of preventing re-offense against the victim and any future chances of torture being inflicted on other women and children.